

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MIGUEL DEANDA §
v. § CIVIL ACTION NO. 6:10cv106
SHERIFF, ANDERSON COUNTY §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Miguel Deanda, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. Deanda originally filed the application as a civil rights lawsuit, but he directly challenged the validity of his conviction and asked that it be overturned, and so it was construed for all purposes as a habeas corpus petition. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Deanda states that he was convicted of tampering with government documents and theft on October 5, 2007, receiving probated sentences of two and 10 years. He did not appeal, nor has he sought state habeas corpus relief. He says that: he was arrested without a warrant and not read his rights; Sheriff Taylor conspired with the probation department; and he has been denied copies of reports and documents from the Sheriff's Department.

After review of the pleadings, the Magistrate Judge issued a Report on April 29, 2010, recommending that the petition be dismissed as filed outside of the statute of limitations. Deanda received a copy of this Report on May 10, 2010, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-

to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 10) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Miguel Deanda is hereby denied a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 21st day of June, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**